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THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

INCOME TAX (ARRANGEMENTS WITH THE
STATES) REPEAL BILL 1989

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,
the Hon. P.J. Keating, M.P.)

GENERAL OUTLINE AND MAIN FEATURES

The purpose of this Bill, which will have no effect on revenue, is to repeal the Income Tax (Arrangements with the States) Act 1978.

This Act was designed to facilitate the introduction by the States of their own personal income tax laws. If such laws met the criteria set out in the Act, the Commissioner of Taxation was authorised to administer them on behalf of the States. As a State wishing to participate in this arrangement would be required to assign to the Commonwealth the right of collection of the State tax debt, the Act provided for a merged collection of Commonwealth and State taxes. The legislative scheme envisaged that some States might have chosen to grant a rebate of income tax rather than levy one. Any rebate allowed was to be at the expense of such a State.

The criteria set out in the Act required that the relevant income tax laws be limited to individuals resident in the State, and that the tax or rebate applicable to each resident person be expressed as a single flat percentage of the ordinary Commonwealth income tax payable by that person.

No State has enacted legislation to give effect to this arrangement.

This Bill will repeal the Income Tax (Arrangements with the States) Act 1978, and make a number of consequential amendments to the Income Tax Assessment Act 1936.

Notes on the clauses of the Bill follow.

Clause 1: Short title

This clause provides for the repealing Act to be cited as the Income Tax (Arrangements with the States) Repeal Act 1989.

Clause 2: Commencement

The repealing Act is to commence on the day on which it receives the Royal Assent. But for this subclause, that Act would, by reason of subsection 5(1A) of the Acts Interpretation Act 1901, come into operation on the twenty-eighth day after the date of Assent.

Clause 3: Repeal

By subclause 3(1) it is proposed that the Income Tax (Arrangements with the States) Act 1978 be repealed.

Subclause 3(2) provides that the amendments made by Parts III and IV of the Income Tax (Arrangements with the States) Act 1978 (the "1978 Act") are not affected by the repeal of that Act. Part III of the 1978 Act amended the Income Tax Assessment Act 1936, and Part IV of the 1978 Act amended the Commonwealth Inscribed Stock Act 1911, repealed the Commonwealth Salaries Act 1907 and amended both the States (Personal Income Tax Sharing) Act 1976 and the Income Tax (International Agreements) Act 1953.

Clause 4 : Consequential amendment of the Income Tax Assessment Act 1936

The proposed repeal of the Income Tax (Arrangements with the States) Act 1978 necessitates consequential amendments to the Income Tax Assessment Act 1936 (the "Assessment Act"). The consequential amendments are set out in the Schedule to this Bill and will be formally made by this clause.

Schedule : Amendments of the Income Tax Assessment Act 1936 consequential on the repeal of the Income Tax (Arrangements with the States) Act 1978

The Schedule specifies the consequential amendments to be made by clause 4 of the Bill to the Assessment Act. The general effect of these amendments, when taken with the repeal of the Income Tax (Arrangements with the States) Act 1978, will be to dismantle the mechanisms that allowed the Commissioner of Taxation to administer an income tax law on behalf of a participating State. The measures will mean, for example, that -

- income tax returns required for the purposes of Commonwealth income tax will no longer be able to include questions relevant to determining liability to State tax and eligibility for State rebates;
- particulars of an assessment to State tax (including notification of liability to State provisional tax) will no longer be able to be included on a Commonwealth assessment notice;
- Commonwealth schedules of pay-as-you-earn tax instalment deductions from salaries and wages will no longer be able to include similar deductions necessary to meet a State tax liability;
- a State will no longer be able to grant a rebate of tax to its residents in respect of the discharge or partial discharge of a Commonwealth income tax liability.

The practical outcome of these measures is to withdraw the authority of the Australian Taxation Office to collect State income taxes or allow State rebates in partial discharge of Commonwealth income tax liabilities.